

2017 Election Legislation and Off-Year Election Issues June 14, 2017



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2017 State Board of Accounts Conference

Getting Ready for 2018

- 2018 Election Administrator Conference: November 28-29, 2017, Downtown Marriott, Indianapolis.
 - Once hotel contract finalized, info on registering for conference and reserving hotel rooms will be forwarded.
 - Interested in your suggestions for agenda and contents.
- 2019 [!] Election Administrator Conference: likely November/December 2018.
 - Rising food costs may result in increased registration fee from \$150 to \$175 per attendee. Take into account when preparing 2018 county budget.

New 2018 Publications and Forms

- New edition of *Indiana Election Code* to be distributed at December 2017 conference.
 - Will contain 2016 and 2017 Election Legislation summaries.
 - What color?
 - New forms discs will be distributed for use in 2018. Some “grandfathered forms” have expired. Be sure to check forms list against inventory (and make certain any outside vendor has current disc).

New 2018 Publications and Forms

- New editions of Manuals and brochures will be distributed at November conference.
- 2018 Election Calendar brochure on website now.
- Special case of the 2018 candidate petition forms:
 - CAN-4 Petition for U.S. Senate May 2018 Primary Candidate
 - CAN-19 Petition for Independent or Minor Party Candidate to be placed on ballot for November 2018 General Election. Does not apply to Libertarians.

2018 County Sheriff Candidates (and others)

- Campaign finance requirements apply, **even if committee is “exploratory”**.
- Required to file CFA-1 statement of organization within 10 days after raising or spending \$100.
- Required to file CFA-4 report by noon January 17, 2018.
- Material requiring disclaimer designed to tell public who *paid* for communication, and whether *candidate approved* of communication.
- Can lead to campaign finance complaints and county election board hearings. Referral to Prosecuting Attorney since Class A misdemeanor.

Disclaimers

- NOT REQUIRED FOR PUBLIC QUESTIONS AT ALL.
- Other exemptions: bumper stickers, pens, “other small items”; articles of clothing.
- Where is disclaimer required? Yard signs; newspaper ads; most mass mailings.
- Color contrast requirements: black text on white background, or same as contrast between background and largest text.
- Printing font size requirements: 7 point absolute minimum.

Disclaimers - Examples

- “Paid for by Jones for County Sheriff Committee”
- “Paid for by Citizens for a Better County PAC and not authorized by any candidate.”
- “Paid for by John R. Smith and not authorized by any candidate.”

If the Horse is out of the Barn...

- If disclaimer omitted, or incorrect, correct text can be added to yard signs and other material.
- If newspaper ad, running a correction may help.
- Self-reporting to county election board. Maximum civil penalty of \$1,000, plus costs, for color contrast or font size requirements.

Impersonating Officeholder

- Person cannot knowingly or intentionally distribute political advertisements or campaign materials falsely representing that “candidate in any election is or has been an officeholder”. IC 3-9-3-5.
- CEB penalty of up to \$500, if unanimous vote.
- Example #1: “Re-elect John Smith Coroner”.
 - OK or not? Depends! Is (or was) he serving as coroner?
- Example #2:

“John Smith
Coroner”
- Example #2 can be OK. “For” is not a magic word.
- Law interpreted in favor of candidate if ambiguous.

Electioneering Material on Public Property

- If county, city, town, township, school corporation permits or authorizes campaign material in support of candidate, political party, or public question on its property, then
- Local government must allow campaign material **from any person** to be placed on that property,
- Subject to same restrictions on time, place and manner. IC 36-1-4-21.

2017 Election Legislation

- Many election-related bills introduced in 2017 session; only a small percentage passed.
- Listed on page 1 of *2017 Indiana Legislative Summary (now assigned “Public Law” numbers)*.
- Summary will be printed in front of new 2018 Election Code book.

2017 Election Legislation: Voter Registration

- Statewide mailing program moves to 2019, then every odd-numbered year.
- County not required to wait for reopening of registration to process address updates or cancellations from mailing.
- With Interstate Crosscheck (Kansas) Program, county can cancel voter registration record if county determines that voter registered in other state after date of Indiana registration. NCOA notice and inactivation period not required.

2017 Election Legislation: Voter Registration

- County can cancel voter registration record if voter registers in another Indiana county. No requirement for voter to specifically sign authorization to cancel former registration. Indiana form contains authorization, while federal form does not.
- Quarterly reports from county sheriff regarding convicted criminals in county jail. Although these reports required for several years, no uniform format developed, and counties sometimes lacked all information needed to process. Some counties not receiving reports at all.
- Indiana Election Division will develop sheriff report form working with counties and Indiana Sheriffs' Association.

2017 Election Legislation: Vote History in One-Party Primary

- If only Party A is holding a primary election, and there is no public question on primary ballot, then a voter at the primary is to be recorded as voting a Party A primary ballot.
- This procedure to be followed even if poll book indicates a "Party B" ballot or nonpartisan ballot requested by voter.

2017 Election Legislation: Vote Registration Forms at BMV

- Beginning in 2018, if person goes to BMV branch for transaction **other than driver's license, permit, or ID card**, BMV staff will ask person if they wish to register or change their VR record.
- If voter says yes, then BMV will provide paper voter registration form to voter.
- Voter is responsible for completing registration form and providing to appropriate county VR office.

2017 Election Legislation: Absentee Ballot Applications

- The first date to receive an absentee ballot application for 2018 is December 1, 2017.
- Absentee application forms from previous years are no longer "grandfathered". Only current versions listed on forms disc can be accepted for filing.
- Deadlines for nominating and appointing absentee boards now same in both central count and precinct count counties.

2017 Election Legislation: Absentee Ballot Applications- DREs

- Procedures for counties using electronic poll books [Epollbooks] clarified (depending on type of voting system used):
 - If county uses epoll books for in person absentee voting on **touchscreen electronic system**, then absentee application not required, so long as county does **one** of the following:
 - Requires voter to sign affidavit that includes a "unique identifier";
 - OR**
 - Produces document, label, or electronic record that includes unique identifier associated with each voter.
- County election board must file copy of either affidavit or description of procedure to generate unique identifier with the Indiana Election Division.

2017 Election Legislation: Absentee Application- Optical Scan

- If county uses Epollbooks for in person absentee voting on **optical scan ballot card voting system**, voter:
 - Not required to sign absentee ballot application.
 - Must sign ABS-7 absentee envelope that contains absentee ballot.

2017 Election Legislation: Absentee Ballot Couriers and Counters

- In central count county, county election board may appoint 16 or 17 year old non-voter who resides in county (and otherwise qualified to serve as a poll worker) to be absentee ballot counter or courier.
- Appointment requires unanimous vote of county election board for appointment of each individual.

2017 Election Legislation: Voting Procedures and Equipment

- County election board (rather than circuit court clerk) decides which poll worker responsible for determining the “end of the line” at the close of the polls.
- Poll clerk “shall” (not “may”) check “Address Unchanged” box on Epollbook if voter says that address unchanged.
- County can establish cumulative fund for purchase of Epollbooks (in addition to “voting systems”).

2017 Election Legislation: Voting Procedures and Equipment

- Public tests of optical scan voting system must begin before in-person absentee voting starts in clerk’s office. (Same as current deadline for public test of DREs).
- County election board uses random selection of 10%+ of automatic tabulating machines for public test, and can be required to test additional tabulators upon request.
- Ballot with school board office candidates: district school board offices listed before at large school board offices.

2017 Election Legislation: Candidates

- Clarification that candidate not required to list “ward” on a candidate filing if the candidate does not reside in a “ward.”
- To fill candidate vacancy after primary, county chairman makes **direct appointment** of candidate if only one (or zero) committeemen eligible to conduct a caucus.

2017 Election Legislation: Candidates

- In small town party convention, candidate must meet same “party affiliation” requirement that applies if candidate files for nomination in a party primary.
- State law spells out who is nominated at small town party convention for election to at-large town council seats when more than one at-large seat up for election.

2017 Election Legislation: Candidates

- Petition candidate not required to file candidate’s consent at same time as filing petitions to be processed by county voter registration office.
- In county with separate voter registration board, consent and CAN-12 statement of economic interest must be filed when **certified** petitions filed with circuit court clerk.

2017 Election Legislation: Candidates

- School board petition candidates can be notified in person by county voter registration office whether candidate has enough valid signatures on petition (or not).
- Local superior court judge retention filings required with secretary of state (applies to Lake, Marion, and St. Joseph counties).

2017 Election Legislation: Office Vacancies

- Secret ballot of precinct committeemen at caucus to fill office vacancy **not required** if only one candidate running in caucus.
- Military leave temporary office vacancy filling: temporary appointment can be made after officeholder files written notice of leave of absence. Clarifies that temporary vacancy filling can occur before official actually leaves for military service.

2017 Election Legislation: Partisan Balance for Local Boards

- Uses same method that applies to primary election candidates to determine if individual to be appointed to board or commission meets any "partisan balance" requirement in state law.
- Party affiliation determined by which party individual voted for in last primary in Indiana. If individual has never voted in Indiana primary, then party affiliation determined by certificate of party county chairman.
- Any certification by party chairman for individual must be filed with circuit court clerk no later than oath of office is filed with clerk. Otherwise, the appointment is void.

2017 Election Legislation: Poll Workers and Polling Places

- State laws clarified on number of challengers, pollbook holders, and watchers permitted in vote center location of "combined polling place" where two precincts administered by same precinct election board.
- In combined polling place, party can have one challenger, watcher, and pollbook holder for each precinct. Media can have one watcher for each precinct.

2017 Election Legislation: Poll Workers and Polling Places

- In vote center location, each party entitled to one challenger, pollbook holder for each electronic pollbook station (or number of stations if specified in county's vote center plan if greater).
- Media entitled to one watcher for each electronic poll book station (or number of stations if specified in county's vote center plan is greater.)
- Minor children permitted in voting booth in polls with parent or caregiver.

2017 Election Legislation: City and Town Elections

- State law clarified to provide what city or town pays to county if county uses vote centers in municipal election year:
 - All expenses incurred for administering municipal primary or municipal general election apportioned among cities and towns based on the percentage of votes cast in each municipality of all votes cast in all cities and towns in that primary or election.
 - No "direct cost" or "indirect cost" distinction.
 - Towns can still enter into fixed fee agreement with county, and not be subject to apportioned costs.

2017 Election Legislation: City and Town Elections

- State law clarified to provide that if special election (such as school referendum) conducted in more than one county, same division of responsibilities for designating polling places, appointing precinct officers, printing poll lists, processing absentee ballot applications and ballots apply as when a city or town election is conducted in more than one county.
- Town ordinances changing year for town elections (some or all offices elected in general election years, for example) must be on file with circuit court clerk to be effective.

2017 Election Legislation: City and Town Elections

- Small town council district ordinances must be on file with circuit court clerk by January 1, 2018.
- If not filed, the districts are abolished, and all town council members elected at large.
- Filing requirement met by either previous filing of council district ordinance adopted after 2011, or “recertification” of previous council district ordinance to the circuit court clerk after 2011.
- If town council districts are abolished in 2018, small town can still create new town council districts by adopting and filing ordinance with clerk.

2017 Election Legislation: Multi-County Special Elections

- If a special election (school referendum, for example) is being held at same time as another election (such as city or town election) where not *all* precincts voting in special election are also voting in the other election, then election expenses incurred for special election in “special election only” precincts are paid by school corporation (in this example) in same ratio that number of votes cast in “special election only” precincts has to total number of votes cast in ALL precincts voting that day.

2017 Election Legislation: “Stand Alone” Special Elections

- If a special election (school referendum, for example) is being held only in part of **vote center county**, and NOT at same time as another election, then county vote center plan must provide at least 1 vote center for each 10,000 active voters (and any fraction over 10,000 active voters) in the election district.

2017 Election Legislation: Filing Requirements

- If election deadline falls at *time* when office closed, deadline is extended until next day office is open for public business (noon on that day in case of filing deadlines).
- As general rule, no filings with county voter registration offices by fax or email (such as candidate petitions), unless state law expressly authorizes or requires filing.

2017 Election Legislation: Filing Requirements; Triggers

- No filing electronic, digital, or photocopied signatures with county voter registration office if county office is required to verify these signatures (candidate petitions and controlled projects, for example).
- Miscellaneous changes made to petition and remonstrance/referendum threshold requirements for controlled project or school tax levy referenda.

2017 Election Legislation: Signs and Crimes

- Except to ensure public safety, local government cannot limit the number or size of signs during last 60 days before election.
- Penalties for certain election crimes reduced to misdemeanors or infractions:
 - Falsely filing a declaration or petition (Class A misdemeanor; up to 1 year in prison; \$5,000 fine)
 - Removing ballot from polls; poll worker permitting voting booth to be used without effective privacy screen, inspector allowing ballot without poll clerk initials, or with a “distinguishing mark” to be deposited in ballot box (Class C infraction - \$500 fine)

